## Exhibit A



Via e-mail to: BUH/ExecAssistant@bop.gov and CMRR 7018-2290-0000-4806-5538

September 24, 2019

Warden, FMC Butner P.O. BOX 1600 BUTNER, NC 27509

Re: Mr. Bernard Madoff # 61727-054 Request for Compassionate Release

## Dear Warden:

I am writing on behalf of my client, Mr. Bernard Madoff, who is incarcerated at your facility. Mr. Madoff is 81 years old. He was recently diagnosed with Stage 5 kidney disease. He is currently living in hospice at your facility. I respectfully request that Mr. Madoff be approved for compassionate release.

Program Statement (PS) 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g), provides in relevant part that:

RIS consideration may be given to inmates who have been diagnosed with a terminal, incurable disease and whose life expectancy is eighteen (18) months or less, and/or has a disease or condition with an end-of-life trajectory under 18 USC § 3582(d)(1).

PS 5050.50, page 4. Additionally, the U.S. Sentencing Commission has adopted U.S.S.G. § 1B1.13. According to § 1B1.13 of the Sentencing Guidelines, extraordinary and compelling circumstances exist to warrant compassionate release when:

- (A) Medical Condition of the Defendant.—
- (i) The defendant is suffering from a terminal illness (i.e., a serious and advanced illness with an end of life trajectory). A

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specific prognosis of life expectancy (i.e., a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.

- (ii) The defendant is—
- (I) suffering from a serious physical or medical condition,
- (II) suffering from a serious functional or cognitive impairment, or
- (III) experiencing deteriorating physical or mental health because of the aging process,

that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

(B) Age of the Defendant.—The defendant (i) is at least 65 years old; (ii) is experiencing a serious deterioration in physical or mental health because of the aging process; and (iii) has served at least 10 years or 75 percent of his or her term of imprisonment, whichever is less.

U.S.S.G. § 1B1.13, App. Note 1.

I respectfully submit that Mr. Madoff is eligible for compassionate release under PS 5050.50 based on his Stage 5 kidney disease, a terminal disorder. Mr. Madoff is currently living in hospice at the institution. Stage 5 kidney disease clearly has an "end-of-life trajectory." Mr. Madoff does not need to demonstrate that he will die within 18 months under the BOP's revised program statement. Rather, his Stage 5 kidney disease need only put him on an "end-of-life trajectory."

I also respectfully submit that Mr. Madoff meets the requirements for compassionate release under § 1B1.13 of the Sentencing Guidelines. Specifically, Mr. Madoff has a terminal illness within the meaning of §



1B1.13, App. Note 1(A)(i). Mr. Madoff also qualifies for compassionate release because he is "suffering from a serious physical condition" and/or "experiencing deteriorating physical or mental health because of the aging process." U.S.S.G. § 1B1.13, App. Note 1(A)(ii)(I) & (III). Mr. Madoff is not able to provide "self-care" for his Stage 5 kidney disease, and he is not expected to recover from this disorder.

Finally, Mr. Madoff also qualifies for compassionate release under U.S.S.G. § 1B1.13, App. Note 1(B). Mr. Madoff is 81, plainly experiencing "a serious deterioration in physical [] health because of the aging process," and has served ten years of his sentence. U.S.S.G. § 1B1.13, App. Note 1(B).

Mr. Madoff has secured a release residence with a family friend. And while the nature of Mr. Madoff's offense was no doubt serious, he has no criminal history and owes no restitution. The balance of all factors strongly favor granting compassionate release.

Accordingly based on the foregoing, I respectfully request that Mr. Madoff be approved for compassionate release.

Thank you for your consideration of this request. I look forward to your response.

Sincerely,

Brandon Sample

Encl. (0x)
BCS
cc: Mr. Bernard Madoff *via* U.S. Mail
File

